

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GUAN H., *et al.*, on behalf of themselves and
all others similarly situated,

11 Civ. 4299 (AJN)

Plaintiffs,

LING LING CHOU,

**DECLARATION
IN SUPPORT OF
DISMISSAL**

Plaintiff-Intervenor

-against-

NEW YORK CITY DEPARTMENT OF
EDUCATION, *et al.*,

Defendants.
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LYNN BERAT hereby declares under penalty of perjury that the following is true
and correct:

1. I am one of the defendants in the above-entitled action, and I make this
delcaration in support of my motion to dismiss all claims against me.
2. Intervenor's First Amended Complaint alleges that I forwarded an e-mail
to defendant Boyer. (§43). Said First Amended Complaint neglects to mention the date on
which I forwarded that email.
3. I forwarded a number of emails to defendant Jamel Boyer, all of them on
the same day, December 6, 2011, more than five months after the Department of Education
transferred Plaintiff Intervenor Ling Ling Chou, and more than five months after Ms. Chou
intervened in the present action. All emails that I forwarded to Mr. Boyer were copies of e-mails
that formed part of the historical e-mail record of Shuang Wen School, the Shuan Weng School
Parents Association, and the SWAN (Shuang Wen Academy Network) board.
4. Prior to December 6, 2011, I never forwarded any emails to Mr. Boyer.

5. I believe that the email attached as Exhibit A to this declaration is a copy of the specific email to which Intervenor's First Amended Complaint refers, although, as stated above, I forwarded more than one email to Mr. Boyer on December 6, 2011, and I do not know which one he showed to Ling Ling Chou.

6. It is chronologically impossible that my emails of December 6, 2011, caused the Department of Education to transfer Ms. Chou.

WHEREFORE, I respectfully request that this Court issue an order:

1. Dismissing all claims against me; and
2. Awarding me reasonable costs and attorneys' fees against plaintiffs and Intervenor, pursuant to 42 U.S.C. §1988; and
3. Granting such other and further relief as may be deemed just and proper.

I hereby declare under penalty of perjury that the foregoing is true and correct. Signed on March 19, 2012.



Lynn Beral

EXHIBIT A

----- Original Message -----

Subject: [FWD: SWAN Executive Board Meeting]
From: <doctorberat@beratassociates.com>
Date: Tue, December 06, 2011 3:29 pm
To: "Jamel Boyer" <JBoyer2@schools.nyc.gov>

----- Original Message -----

Subject: SWAN Executive Board Meeting
From: Susie Kong <susiekong@gmail.com>
Date: Thu, October 01, 2009 9:13 pm
To: JCWong2 <JCWong2@aol.com>, "Ling Ling Chou (01M184)" <LChou@schools.nyc.gov>, "Tina Hsu (Financial Sec)" <tinang@att.net>, Trinh Duong <jeremy_mama@yahoo.com>, Nicole <nicole.lin@aya.yale.edu>, intlinitvs@aol.com, "Lynn Berat (Corresponding Sec)" <doctorberat@beratassociates.com>
Cc: Troy Robinson <t_robinson333@yahoo.com>, "Christine Chuah (Vice President)" <CLC1383@yahoo.com>, Fang Jet <jetfang@gmail.com>

On behalf of Mr. Jacob Wong, we need to meet ASAP, Monday, October 5th, 8:30am (Tuesday is no good because PA Exec Board meeting).

Mr. Wong, Lynn Berat, Troy Robinson, Christine Chuah, Denise Gamble and I went to meet with Patty Waters in regarding to DYCD Grant. SWAN is in violation under DYCD. With this grant, SWAN cannot ask for tuition. To avoid losing this grant, we must do the following:

1. Those children that was excluded would need to be informed (Winnie is working on it - we have 2 business days to complete this task). They do not need to "pay" to qualify for ASP. If they choose not to participate anymore, then they must give SWAN a written notification. [under DYCD grant, children only need to have 160 hours of attendance].
2. SWAN need to DRAFT a letter to inform parents that SWAN is going to REFUND their tuition. This DRAFT will be send to Ms. Patty Waters by October 8th for her review. (Lynn Berat volunteer to DRAFT the letter, we will review before sending to Ms Waters - 5 business days). When it is approve by Ms. Waters then SWAN will have it translate into Chinese and distribute by October 15th (another 5 business days). BTW, if parents choose to transfer their "tuition" as contribution, we **CANNOT** accept that.
3. SWAN will make sure we have enough checks for the refund (Winnie will order ASAP).
4. After the violation corrected. Ms Patty will add another 33 slots to our existing 385 = 418 (\$600 per child) = \$250,800 [operating cost approx. \$900,000]

Ms Lingling, Winnie and Mr. Fang were informed of the above criterias. We need to meet and discuss the future of SWAN. After tuition refund, we can then write another detail letter about cost of program asking for CONTRIBUTION.

Lynn: although we have 5 days to submit to Ms Waters for review. Can you draft by Monday for the SWAN board review?

Thank you all
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